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UTILITIES DIVISION

ARIZONA CORPORATION COMMISSION

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Application for a Certificate of Convenience and Necessity and for  
Determination that Services of the Applicant are Competitive

ARIZONA CORPORATION COMMISSION  
DOCUMENT CONTROL

**Applicant:** essential.com, inc. d/b/a Essential.com, Inc. – Your Energy &  
Communications Superstore

**Docket No:** T-03832A-00-0220

On April 6, 2000, the Applicant filed an application for a Certificate of Convenience and Necessity (CC&N) to resell local exchange services in the State of Arizona.

Staff reviews such applications and makes a recommendation to the Commission that the application be approved, conditionally approved, or denied. In arriving at its recommendation, Staff assesses the following criteria: a) sufficiency of the application, b) technical and managerial capability of the Applicant, c) financial capability, d) tariff structure, e) complaint history of the Applicant, and f) whether the Applicant's proposed rates will be competitive, just and reasonable.

An "X" marked in the following boxes indicates that the information filed by the Applicant has met Staff's requirements regarding the following criteria:

#### REVIEW OF APPLICANT INFORMATION

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☒ The necessary information has been filed to process this application.

The Applicant has submitted all required information, and has authority to transact business in the State of Arizona.

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**TECHNICAL AND MANAGERIAL SECTION**

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- ☒ **The Applicant has sufficient technical and managerial capabilities to resell local exchange service in the State of Arizona.**

The Applicant is approved to resell local exchange service in 14 states and the District of Columbia. The Applicant is currently offering local and intrastate toll service in Massachusetts and New York. The Applicant has a resale agreement with U S WEST Communications, Inc. that was approved in Decision No. 62487. Based on this information, Staff has concluded that the Applicant has sufficient technical and managerial capabilities to provide resold local exchange service.

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**FINANCIAL SECTION**

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- ☒ **The Applicant lacks sufficient financial capabilities to resell local exchange service in the State of Arizona without the procurement of a performance bond.**

The Applicant has provided financial statements for the nine-months ended September 30, 1999. These financial statements indicate that the Applicant had total assets of \$11.18 million and stockholders' deficit totaling (\$5.58 million). In addition, the Applicant had an accumulated deficit of (\$5.99 million). Based on this information, Staff believes the Applicant lacks adequate financial resources without the procurement of a performance bond.

Since this Applicant does not appear to have sufficient financial resources, Staff believes that any deposits, prepayments, and advances received from the Applicant's customers should be protected. Further, measures should be taken to ensure that the Applicant will not discontinue service to its customers without first complying with A.A.C. R14-2-1107.

To that end, Staff recommends: 1) that the Applicant procure a performance bond; 2) that the amount of the performance bond account be sufficient to cover 60 days revenue from its customers, and any prepayments or deposits collected from the Applicant's customers; 3) that the amount of the performance bond be increased if at any time it would be insufficient to cover the aforementioned requirement; 4) that if the Applicant desires to discontinue service it file an application with the Commission pursuant to A.A.C. R14-2-1107; 5) that the Applicant be required to notify each of its customers and the Commission 30 days prior to filing an applications to discontinue service pursuant to A.A.C. R14-2-1107; 6) that failure to meet requirement number 5 will result in forfeiture of the Applicant's performance bond; 7) that proof of the performance bond be docketed within 30 days of a Decision in this matter, or prior to the provision of service, whichever is first; and 8) that after one year of operation under the CC&N granted by the Commission, Staff recommends that the Applicant be allowed to file a request for cancellation of its established escrow account/surety bond. Such request should be accompanied by information demonstrating the Applicant's financial viability.

*Staff Review of Application for Local Exchange Service Reseller CC&N*

Upon receipt of such filing and after Staff review, Staff will forward its recommendation to the Commission for a Decision that the requested cancellation is in the public interest.

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**TARIFF SECTION**

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☒ **The Applicant's proposed tariff fulfills the requirements of the Commission.**

The Applicant has filed a proposed tariff with the Commission. Staff has determined that the Applicant's proposed tariff fulfills the Commission requirements.

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**COMPLAINT SECTION**

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☒ **Complaints against the Applicant (if any) are not sufficient to deny the application to resell local exchange service in the State of Arizona.**

The Applicant has neither had an application for service denied, nor revoked in any state. There are, and have been, no formal complaint proceedings involving the Applicant, nor have there been any civil or criminal proceedings against the Applicant. Consumer Services reports no complaint history within Arizona.

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**COMPETITIVE SECTION**

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☒ **The Applicant's proposed rates will be competitive, just, and reasonable.**

The Applicant is a reseller of services it purchases from other telecommunications companies. It is not a monopoly provider of service nor does it control a significant portion of the telecommunications market. The Applicant cannot adversely affect the local exchange market by restricting output or raising prices. In addition, the entities from which the Applicant buys bulk services are technically and financially capable of providing alternative services at comparable rates, terms, and conditions. Staff has concluded that the Applicant has no market power and that the reasonableness of its rates will be evaluated in a market with numerous competitors.

The Commission provides pricing flexibility by allowing competitive telecommunication service companies to price their services at or below the maximum rates contained in their tariffs as long as the pricing of those services complies with A.A.C. R14-2-1109. The Commission's rules require the Applicant to file a tariff for each competitive service that states the maximum rate as well as the effective (actual) price that will be charged for the service. Staff recommends that the Applicant's competitive services be priced at the rates proposed by the Applicant in its most recently filed tariffs. In the event that the Applicant states only one rate in its tariff for a competitive service, Staff recommends that the rate stated be the effective (actual) price

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to be charged for the service as well as the service's maximum rate. Any changes to the Applicant's effective price for a service must comply with A.A.C. R14-2-1109.

#### Minimum and Maximum Rates

A.A.C. R14-2-1109(A) provides that minimum rates for the Applicant's competitive services are the Applicant's total service long run incremental costs of providing the services. The Applicant's maximum rates should be the maximum rates proposed by the Applicant in its most recent tariffs on file with the Commission. Any future changes to the maximum rates in the Applicant's tariffs must comply with A.A.C. R14-2-1110.

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### STAFF RECOMMENDATIONS

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Staff has reviewed the Applicant's application for a Certificate of Convenience and Necessity to offer local exchange services as a reseller and its Petition to classify its local exchange services as competitive. Based on its evaluation of the Applicant's technical and financial capabilities to resell local exchange services, Staff makes the following recommendations:

The Applicant should be ordered to:

1. Comply with all Commission rules, orders, and other requirements relevant to the provision of intrastate telecommunications service;
2. Maintain its accounts and records as required by the Commission;
3. File with the Commission all financial and other reports that the Commission may require, and in a form and at such times as the Commission may designate;
4. Maintain on file with the Commission all current tariffs and rates, and any service standards that the Commission may require;
5. Comply with the Commission's rules and modify its tariffs to conform to these rules if it is determined that there is a conflict between the Company's tariffs and the Commission's rules;
6. Cooperate with Commission investigations of customer complaints;
7. Participate in and contribute to a universal service fund, as required by the Commission;
8. File its tariffs within 30 days of an Order in this matter, and in accordance with the Decision; and to

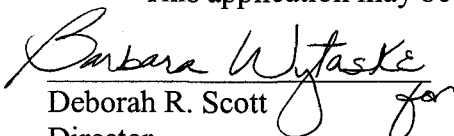
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9. Notify the Commission immediately upon changes to the Applicant's address or telephone number.

Staff further recommends the following:

- That the Applicant 1) procure a performance bond; 2) that the amount of the performance bond account be sufficient to cover 60 days revenue from its customers, and any prepayments or deposits collected from the Applicant's customers; 3) that the amount of the performance bond be increased if at any time it would be insufficient to cover the aforementioned requirement; 4) that if the Applicant desires to discontinue service it file an application with the Commission pursuant to A.A.C. R14-2-1107; 5) that the Applicant be required to notify each of its customers and the Commission 30 days prior to filing an applications to discontinue service pursuant to A.A.C. R14-2-1107; 6) that failure to meet this prior requirement (number 5) result in forfeiture of the Applicants performance bond; 7) that proof of the performance bond be docketed within 30 days of a Decision in this matter, or prior to the provision of service, whichever is first; and 8) that after one year of operation under the CC&N granted by the Commission, Staff recommends that the Applicant be allowed to file a request for cancellation of its established escrow account/surety bond. Such request should be accompanied by information demonstrating the Applicant's financial viability. Upon receipt of such filing and after Staff review, Staff will forward its recommendation to the Commission for a Decision that the requested cancellation is in the public interest.
- The Applicant's local exchange service offerings should be classified as competitive pursuant to A.A.C. R14-2-1108.
- The Applicant's competitive services should be priced at the rates proposed by the Applicant in its most recently filed tariffs. The maximum rates for these services should be the maximum rates proposed by the Applicant in its tariffs. The minimum rates for the Applicant's competitive services should be the Applicant long run incremental costs of providing those services as set forth in A.A.C. R14-2-1109.
- In the event that the Applicant states only one rate in its proposed tariff for a competitive service, the rate stated should be the effective (actual) price to be charged for the service as well as the service's maximum rate.

This application may be approved without a hearing pursuant to A.R.S. § 40-282.

  
Deborah R. Scott  
Director  
Utilities Division

8-11-00  
Date

Originator: Marta Kalleberg

Date: August 2, 2000